

NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to present our December 2019 issue, which is the second in our thirty-sixth volume. This issue includes two articles, two student notes, and an essay. These pieces touch on a variety of legal issues that are currently significant to Alaska, and particularly to Alaska Natives, with a special focus on natural resources and land use.

Our first Article, *Alaska's Constitution and Felony Disenfranchisement: A Historical and Legal Analysis Abstract*, J.C. Croft explores how a disproportionately high segment of Alaska's incarcerated population is non-white and subject to the state's felony disenfranchisement statute. Mr. Croft argues that the Alaska legislature has impermissibly broadened the scope of the felony disenfranchisement provision over time. Specifically, he proposes that the Alaska Constitution permits the revocation of voting rights for persons convicted of felonies involving "moral turpitude," but that the definition of this provision should be left to the courts rather than the legislature. Today, the existing statute is impermissibly broad, exceeds the Alaska legislature's authority, and contravenes the Alaska Constitution.

In our second Article, *A Better Kind of Frozen Food: Using State and Federal Law to Bring School Farming and Other Community Agriculture to Rural Alaska Communities*, Charles Kidd explores the limited access to affordable food, especially fresh produce, in rural communities, disproportionately affecting Alaska Natives. Mr. Croft proposes that changes to existing state and federal law could mitigate these effects and foster agricultural skills and healthful habits for young Alaskans. He argues that changes to Alaska's oil and gas land property tax system would encourage oil and gas companies to donate land and leaseholds to school farming, and that the United States Department of Agriculture's Seasonal High Tunnel Initiative could be leveraged to provide tundra farmers access to auxiliary structures that extend the growing season.

In our Essay, *Subsistence & Sturgeon: Federal Enforcement on Alaska's Rivers*, Elliot Louthen explores the March 2019 United States Supreme Court decision in *Sturgeon v. Frost*, arguing that the Court's holding could stifle federal law enforcement in Alaska. Mr. Louthen explores how an overly cautious interpretation of *Sturgeon* could jeopardize all federal enforcement on the thousands of miles of navigable rivers in Alaska. However, he proposes that, when considered in the broader context of subsistence rights in Alaska, there are ample distinctions to be drawn between the hovercraft regulation at issue in *Sturgeon* and other fishing

regulations, providing foundation for future judicial decisions upholding federal authority to enforce federal subsistence fishing regulations in navigable waterways.

Mr. Louthen's Essay is paired with our second Note, *The Impact of Sturgeon II on Alaska Subsistence Management: A chance for Peace in the Jurisdiction Wars* by Craig Jones. Mr. Jones explores how the Court attempted to avoid the subsistence question in *Sturgeon* while ultimately only galvanizing issues related to subsistence management. He proposes a resolution to the jurisdictional struggle, arguing that *Sturgeon* presents new opportunities for federal-state cooperation and further recognition of Alaska Native interests. Specifically, Mr. Jones proposes increased cooperation through cooperative management plans, the Alaska Land Use Council, and memoranda of understand, and a state constitutional amendment recognizing rural subsistence rights.

In our first student Note, *The Road Goes Ever On and On: A Path Through the Wilderness on R.S. 2477 Litigation in Alaska*, Michelle Jackson explores Alaska's preservation of public access to historic trails, including the Iditarod, and efforts to document rights of way. However, Ms. Jackson argues that, while identifying existing R.S. 2477 rights of way is important for economic development, Alaska's litigation strategy threatens private property owners' rights, the integrity of land allotments under the Alaska Native Claims Act, and federal conservation efforts. Ms. Jackson explores the history of R.S. 2477 and recent litigation, and proposes how a balance can be established between private ownership interests and economic development in Alaska.

This issue of the *Alaska Law Review*, as with all of our previous issues, is freely available on our website, alr.law.duke.edu. There, anybody can access PDFs of all of our content, which are both printable and searchable. We hope that you will visit our site, and continue to engage with the journal. We always welcome your comments, responses, and feedback; please feel free to email us at alr@law.duke.edu.

On behalf of my peers on the *Alaska Law Review* editorial staff, I hope that you enjoy this issue. It is a privilege to participate in this service for the Alaskan legal community. We thank the Alaska Bar Association for its confidence in Duke University School of Law, and thank all of our readers for your interest and support.

Shoshana Silverstein
Editor-in-Chief, 2019–2020